

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

Atty. Docket

JOHAN P.M.G. LINNARTZ ET AL.

PHNL 000584

Serial No.: 10/082,856

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Examiner: J.A. Reagan

METHOD AND ARRANGEMENT FOR ENABLING DISINTERMEDIATION, AND RECEIVER
FOR USE THEREBY

Commissioner for Patents
P.O. Box 1450
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Sir:

APPEAL BRIEF

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(i) Real Party in Interest

The real party in interest in this application is KONINKLIJKE PHILIPS ELECTRONICS N.V. by virtue of an assignment from the inventors recorded on June 11, 2002, at Reel 012985, Frame 0253.

(ii) Related Appeals and Interferences

There are no other appeals and/or interferences related to this application.

(iii) Status of Claims

Claims 1-10 stand finally rejected by the Examiner. The rejection of claims 1-10 is hereby being appealed.

(iv) Status of Amendments

There was one (1) Response filed on February 15, 2006, after final rejection by the Examiner on October 24, 2005, this Response having been considered by the Examiner.

(v) Summary Of Claimed Subject Matter

The subject invention relates to a method and an arrangement for effecting "disintermediation" in a business model, i.e., eliminating the middleman such that a content owner may directly provide his/her services to a consumer.

As an example, consider a movie producer who wishes to promote a movie. To this end, he produces a trailer, which the producer provides to a distributor to be transmitted to consumers. Normally, a consumer who views the trailer and decides he wants to go see the movie then needs to access some information service to find out which cinemas show the movie and at which times. The distributor of the trailer may provide this information to the consumer, for instance, as a Teletext page listing all available movies and starting times, or as a mention in a local television show or advertisement. However, the distributor will most likely charge a fee either to the producer or to the consumer for making this information available using his Teletext channel.

In order to effect the above object, the subject invention, as claimed in claim 1, relates to a method of enabling disintermediation in a business model, and includes "electronically embedding extra information related to the business model in content". This is shown in Fig. 1 and described in the Substitute Specification page 7, line 2 to page 8, line 19 (paragraphs [0026]-[0031]), in which content 116 is embedded with a watermark by the watermarking device 110, the watermark containing extra information in accordance with the business model. The subject invention, as

claimed in claim 1, further includes "distributing the content with the embedded information via a third party to a rendering device" and "electronically rendering the content with the embedded information thereby forming an output signal". This is shown in Fig. 1 and described in the Substitute Specification on page 8, lines 19-22 (paragraph [0031]) in which the signal from the watermarking device 110 is provided to rendering device 115, shown as a loudspeaker, for generating an output signal 120. Further, the subject invention, as claimed in claim 1, includes "receiving the output signal" and "electronically extracting the embedded information from the received output signal". This is shown in Fig. 1 and described in the Substitute Specification on page 8, line 23 to page 9, line 12 (paragraphs [0032]-[0034]), in which a receiving module 131 of a receiving device 130 receiving the output signal 120 while a decoding module 132 processes the received output signal to obtain the extra information. Finally, the subject invention, as claimed in claim 1, includes "processing the extracted embedded information in the course of the business model". This is shown in Fig. 1 and described in the Substitute Specification on page 9, lines 13-20, in which the executing module 133 of the receiving device 130 executes some action based on the extra information. A more detailed description of a possible business model is described in the Substitute Specification on page 11, line 19 to page 14, line 4 (paragraphs [0042]-[0049]).

Similarly, the subject invention, as claimed in claim 7, relates to an arrangement for enabling disintermediation in a

business model, and includes "a content source for providing content". This is shown in Fig. 1 and described in the Substitute Specification on page 7, line 8 to page 8, line 2, in which content 116 is "usually received through a network...Alternatively, it can be loaded from local storage 117". In addition, the subject invention, as claimed in claim 7, includes "means for electronically embedding extra information related to the business model in said content". This is shown in Fig. 1 and described in the Substitute Specification page 7, line 2 to page 8, line 19 (paragraphs [0026]-[0031]), in which content 116 is embedded with a watermark by the watermarking device 110, the watermark containing extra information in accordance with the business model. The subject invention, as claimed in claim 7, further includes "a distributor for distributing the content with the embedded information", and "a rendering device for picking up the content with the embedded information and for electronically rendering an output signal corresponding to said content with the embedded information". This is shown in Fig. 1 and described in the Substitute Specification on page 8, lines 19-22 (paragraph [0031]) in which the signal from the watermarking device 110 is provided to rendering device 115, shown as a loudspeaker, for generating an output signal 120. Alternatively, as shown in Fig. 2 and described in the Substitute Specification on page 10, line 11 to page 11, line 18, a content provider 201 embeds extra information in the content by watermarking, provides the watermarked content to a distributing entity 202 which distributes the watermarked content

over an distribution network 203 to a rendering device 204 which, using output device 205 to produce rendered signal 210. Finally, the subject invention, as claimed in claim 7, includes "a receiver for receiving said output signal, and for electronically extracting and processing the embedded information in the course of the business model". This is shown in Fig. 1 and described in the Substitute Specification on page 9, lines 13-20, in which the executing module 133 of the receiving device 130 executes some action based on the extra information. This is described in more detail, with respect to Fig. 2, in the Substitute Specification on page 11, line 19 to page 12, line 16, in which a portable receiver 220 receives the rendered signal 210, decodes the watermark from the received signal 210, and, for example, uses the decoded information to communicate with an e-commerce server 240 over a network 230 in order to realize the business model.

The subject invention, as claimed in claim 8, further relates to a receiver for use in the arrangement of claim 7. In particular, the receiver includes "receiving means for receiving a signal having embedded extra information related to a business model". This is shown in Fig. 1 and described in the Substitute Specification on page 9, lines 3-7 (paragraph [0033]), in which receiving module 131 receives the rendered signal 120 and applies it to a decoding module 132.

The receiver, as claimed in claim 8, further includes "decoding means for electronically extracting the embedded extra information from the signal". This is shown in Fig. 1 and described

in the Substitute Specification on page 9, lines 8-12 (paragraph [0034]), in which the decoding module 132 obtains the content 116 from the signal 120, and processes the content 116 to obtain the extra information contained in the embedded watermark.

Finally, the receiver, as claimed in claim 8, further includes "processing means for electronically processing the embedded information in the course of the business model". This is shown in Fig. 1 and described in the Substitute Specification on page 9, lines 13-20, in which an executing module 133 receives the extra information and performs some action based on the extra information, e.g., gaining access to an Internet webpage if the extra information is an Internet URL.

As claimed in claim 9, the receiver of claim 8 may further include "means for transmitting at least a portion of the signal to a supporting server" and "means for receiving from the supporting server the extra information that was embedded in the portion of the signal". This is shown in Fig. 2 and described in the Substitute Specification on page 12, lines 3-10 (paragraph [0044]), in which the receiver 220 has only limited capabilities and communicates with supporting server 250 for assistance in detecting, decoding and/or processing the signal 210 in order to obtain the extra information.

Moreover, the subject invention, as claimed in claim 10, includes "a computer program product comprising instructions for a processor, wherein said processor, when executing said instruction, is capable of receiving a signal comprising extra information

related to a business model, extracting the extra information from the signal, and processing the embedded information in the course of the business model". This is shown in Fig. 1 and described in the Substitute Specification on page 9, line 25 to page 10, line 3, in which a programmable device is enabled by a computer program product 141 to function as the receiving device 130 described above with respect to claim 8.

(vi) Grounds of Rejection to be Reviewed on Appeal

Whether the invention, as claimed in claims 1-10, is unpatentable, under 35 U.S.C. 103(a), over U.S. Patent Application Publication No. 2001/0008557 A1 to Stefik et al. in view of Applicants' own admissions.

(vii) Arguments

(A) Claims 1 and 7

The Stefik et al. reference discloses a system for controlling the distribution and use of rendered digital works through watermarking, in which a digital work is encoded and transmitted to a rendering repository. The rendering repository decodes the digital work, gathers data for and creates a digital watermark, and renders the digital work including the watermark (page 4, paragraph [0060]).

The Examiner states "Applicant, however, in paragraphs 0008 to 0011 discloses that watermarks are a well known technique, and then goes on to describe uses of the technique to include an audio-based signal from a mobile phone."

In Appellants' specification, Appellants conceded, in paragraph [0008], the existence of watermarks and their use in marking or protecting input signals, e.g., a movie can be watermarked so that its origin can be identified, or unauthorized copies can be distinguished from the original. To this end, it is known to extract and identify the watermark.

Paragraphs [0009] and [0010], however, present a summarization of new uses of watermarks, these new uses being the subject matter of the subject invention. These uses, as covered by the subject invention, are more particularly described in paragraphs [0011] - [0014].

As indicated above, Stefik et al. describes a system for receiving a digital work, gathering data for and creating a

watermark, and rendering the digital work inclusive of the watermark. Appellants submit that Stefik et al. neither discloses nor suggests that the watermark included in the rendering of the digital work may be extracted and subsequently used for purposes other than the mere authentication of the digital work.

The method of the subject invention, as claimed in claim 1, includes "receiving the output signal", the output signal being the rendered content (e.g., digital work) with the embedded information (e.g., watermark), "electronically extracting the embedded information from the received output signal" and "processing the extracted embedded information in the course of the business model". To this end, using the example of a mobile phone, the mobile phone, using the microphone portion thereof, may receive the output signal (e.g., a watermarked audio signal being reproduced by a loudspeaker), circuitry in the mobile phone may then extract the embedded information, and, depending on the business model, the user of the mobile phone may use the mobile phone to contact e-commerce servers using the extracted embedded information, "which makes it easy to integrate it in a value chain or to provide interactive services using the embedded extra information as a starting point" (Substitute Specification, pages 4-5, paragraph [0014]).

Appellants submit that in the prior art uses of watermarking, the content being watermarked is of primary interest, that is, watermarking is used in order to protect the content such that legitimate copies of the content may be distinguished from

unauthorized copies of the content. This is described in Stefik et al. at page 8, paragraph [0109].

In contradistinction therewith, in the subject invention, the content itself is of only ancillary interest, it being the extra information embedded in the content via watermarking that is of primary interest.

Appellants therefore submit that the combination of Stefik et al. and Appellants' admission of the existence of watermarking, neither discloses nor suggests "receiving the output signal", the output signal being the rendered content (e.g., digital work) with the embedded information (e.g., watermark), "electronically extracting the embedded information from the received output signal" and "processing the extracted embedded information in the course of the business model".

(B) Claim 10

The above arguments with regard to Stefik et al. and Appellants' admission are incorporated herein.

Appellants note that the Examiner has never separately addressed the invention as claimed in claim 10. However, while Stefik et al. discloses a computer system for rendering the watermarked document (e.g., the computer 1401 and printer 1404 in Fig. 14, or the computers 1601 and 1603 and the printer 1604 in Fig. 16), Stefik et al. neither discloses nor suggests a "computer program product comprising instructions for a processor, wherein said processor, when executing said instruction, is capable of

receiving a signal comprising extra information related to a business model, extracting the extra information from the signal, and processing the embedded information in the course of the business model".

Furthermore, Appellants submit that the combination of Stefik et al. and Appellants' admissions neither discloses nor suggests "receiving a signal comprising extra information related to a business model, extracting the extra information from the signal, and processing the embedded information in the course of the business model".

Based on the above arguments, Appellants believe that the subject invention is not rendered obvious by the prior art and is patentable thereover. Therefore, Appellants respectfully request that this Board reverse the decisions of the Examiner and allow this application to pass on to issue.

Respectfully submitted,

by /Edward W. Goodman/
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(viii) Claims Appendix

1. (Previously Presented) A method of enabling disintermediation in a business model, said method comprising the steps of:

electronically embedding extra information related to the business model in content;

5 distributing the content with the embedded information via a third party to a rendering device;

electronically rendering the content with the embedded information thereby forming an output signal;

receiving the output signal;

10 electronically extracting the embedded information from the received output signal; and

processing the extracted embedded information in the course of the business model.

2. (Previously Presented) The method as claimed in claim 1, wherein the extra information is related to an e-commerce application.

3. (Previously Presented) The method as claimed in claim 2, wherein said receiving step uses a receiver arranged for participating in the e-commerce application.

4. (Previously Presented) The method as claimed in claim 1, wherein said embedding step comprises embedding the extra information in the content using a watermark.

5. (Previously Presented) The method as claimed in claim 1, wherein the output signal is in the acoustical domain.

6. (Previously Presented) The method as claimed in claim 1, wherein said receiving step is performed by a mobile phone.

7. (Previously Presented) An arrangement for enabling disintermediation in a business model, said arrangement comprising:

a content source for providing content;

means for electronically embedding extra information

5 related to the business model in said content;

a distributor for distributing the content with the embedded information;

a rendering device for picking up the content with the embedded information and for electronically rendering an output
10 signal corresponding to said content with the embedded information;

a receiver for receiving said output signal, and for electronically extracting and processing the embedded information in the course of the business model.

8. (Previously Presented) A receiver for use in the arrangement of claim 7, said receiver comprising:

receiving means for receiving a signal having embedded extra information related to a business model;

5 decoding means for electronically extracting the embedded extra information from the signal; and

processing means for electronically processing the embedded information in the course of the business model.

9. (Previously Presented) The receiver as claimed in claim 8, wherein said receiver further comprises:

means for transmitting at least a portion of the signal to a supporting server; and

5 means for receiving from the supporting server the extra information that was embedded in the portion of the signal.

10. (Previously Presented) A computer program product comprising instructions for a processor, wherein said processor, when executing said instruction, is capable of receiving a signal comprising extra information related to a business model,

5 extracting the extra information from the signal, and processing the embedded information in the course of the business model.

(ix) Evidence Appendix

There is no evidence which had been submitted under 37 C.F.R. 1.130, 1.131 or 1.132, or any other evidence entered by the Examiner and relied upon by Appellant in this Appeal.

(x) Related Proceedings Appendix

Since there were no proceedings identified in section (ii) herein, there are no decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of 37 C.F.R. 41.37.